IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3021 of 2002()

ST.1356/2000 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

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PETITIONER: ACCUSED NO.8

M/S.HINDUSTAN LEVER LIMITED, APEX PLAZA
IV FLOOR, NO.3, NUNGAMBZAKKAM HIGH ROAD,
CHENNAI-600 034, REPRESENTED BY SRI.K.S.NARAYANAN

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENTS: COMPLAINANT AND STATE

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1. THE FOOD INSPECTOR, MOBILE VIGILENCE SQUAD,THIRUVANANTHAPURAM.

2. THE STATE OF KERALA,REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.C.3021/2002

ORDER ON CRL.M.P.NO.1819/2002 IN CRL.M.C.NO.3021/2002

DISMISSED

18.10.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.M.C.No.3021 of 2002

Dated this the 18th day of October, 2007

O R D E R

The petitioner is the 8th accused in S.T.No.1356/2000 in the court of Judicial First Class Magistrate, Varkala with respect to the offences under Sections 2(ia)(a) & (m) and 7(i) read with Sections 16(1)(a)(i) of the Prevention of Food Adulteration Act (hereinafter mentioned to as the Act). The rest of the accused as per Annexure A complaint filed by the Food Inspector are the vendor, licensee, distributor, nominee of the company and the manufacturer.

2. The prosecution case is that on 22.2.2000 at about 2.30 p.m. in the premises of Taj Garden Retreat, Varkala, the Food Inspector collected the food sample of ice cream for the purpose of analyse after complying with the statutory formality. The sample when analysed was found not to confirm to the standard prescribed as per the Food Adulteration Rules.

3. It is contended by the counsel for the revision

petitioner that the analysis report is dated 31.3.2000. It is pointed out that as per Annexure B letter attached to the complaint it is mentioned that the second sample has not yet received at the office of the Local Health Authority. Annexure B letter is dated 3.5.2000. As per Rule 17(b) the remaining two parts of the sample etc. should be immediately despatched to the Local Health Authority not later than the succeeding working day by suitable means. It is pointed out that in the absence of compliance of Rule 17(b) the petitioner is in capacitated to invoke Section 13(2) i.e., to get the second sample analysed by the Central Food Laboratory. It is also pointed out that the complaint has been instituted on 6.12.2000 and the notice to the petitioner was issued only on 6.1.2001. Evidently, the entire proceedings appears vitiated in view of the fact that the mandatory statutory stipulations has not been complied with. There is inordinate latches and delay on the part of the complainant in filing the complaint as well as in not complying with Rule 17(b) of the Rules. In the circumstances, I find that the complaint cannot be sustained. Hence, the proceedings

pending in the court below as S.T.No.1356/00 is herewith quashed.

The Crl.M.C. is allowed.

K.R.UDAYABHANU,
JUDGE

csl